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UNITED STATES DISTRICT COURT**DISTRICT OF NEVADA**BARBARA HEINRICH and GREGORY
HEINRICH,

Plaintiffs

v.

ETHICON, INC.; ETHICON LLC; and
JOHNSON & JOHNSON,

Defendants

Case No.: 2:20-cv-00166-APG-VCF

**Order Denying Without Prejudice
Defendants' Motion in Limine No. 10****[ECF No. 138]**

This case is one of many thousands of cases that were joined in multidistrict litigation (MDL) in the United States District Court for the Southern District of West Virginia. The case was transferred to this court for trial in January 2020. ECF No. 69.

The defendants filed a motion *in limine* seeking to exclude from trial evidence about mesh-related complications that plaintiff Barbara Heinrich did not experience. The defendants contend this evidence is irrelevant. The plaintiffs respond by agreeing that evidence of complications Heinrich did not suffer should be excluded from the liability phase of the trial. However, the plaintiffs request that the entire list of complications in consent forms Heinrich signed be admitted in their entirety in the first-phase trial, including complications Heinrich did not experience. The plaintiffs also request that the rule run both ways, such that the defendants' witnesses also cannot discuss complications not at issue in this case.

It is unclear from the parties' submissions whether they discussed these specific points in their pre-motion meet-and-confer session. Given that the parties were required to confer before the defendants filed their motion, the defendants should have known the plaintiffs were going to request an exception related to the consent forms for the first-phase trial, yet I have no

1 information on the defendants' position. I likewise have no information about whether the
2 defendants agree that they also cannot present evidence of complications not experienced by
3 Heinrich. Consequently, I deny the defendants' motion without prejudice to the parties
4 conferring again over these issues. If the parties cannot reach an agreement, then they may file
5 new motions *in limine* that address the other side's position.

6 I THEREFORE ORDER that the defendants' motion *in limine* No. 10 (ECF No. 138) is
7 **DENIED without prejudice.**

8 DATED this 1st day of November, 2021.

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11 ANDREW P. GORDON
12 UNITED STATES DISTRICT JUDGE
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